

WASHINGTON STATE GAMBLING COMMISSION

MINUTES COMMISSION MEETING THURSDAY, AUGUST 10, 1995

Chairman Tull called the meeting to order at 1:30 p.m. at Campbell's Resort, Chelan, Washington.

MEMBERS PRESENT: **ROBERT M. TULL, Chairman; ARDITH DIVINE, and S. DON PHELPS; and Ex Officio Members SENATOR MARGARITA PRENTICE and REPRESENTATIVE RUTH FISHER.**

OTHERS PRESENT: **FRANK MILLER, Director; SHARON TOLTON, Assistant Director, Special Operations; SHERRI WINSLOW, Assistant Director, Field Operations; CALLY CASS-HEALY, Assistant Director, Licensing; CARRIE TELLEFSON; Special Assistant, Public Affairs; KIM O'NEAL, Assistant Attorney General; and SUSAN GREEN, Executive Assistant.**

Chairman Tull introduced the following new Commission members: ex-officio member Representative Ruth Fisher and Don Phelps, the newest commissioner. Commissioner Phelps is an attorney with his own practice in Olympia. **Chairman Tull** said today's meeting will be followed by an executive session including the Commission's assistant attorney general, Kim O'Neal.

LICENSE APPROVALS

NEW LICENSES, CHANGES, WITHDRAWALS, and TRIBAL CERTIFICATIONS

For the benefit of the new Commission members, **Chairman Tull** said the licensee listing is provided to Commissioners prior to the meeting and is treated as a separate agenda item. **Commissioner Divine** moved for approval of the new licenses, changes, withdrawals and tribal certifications as listed in the agenda packet; **Chairman Tull** seconded the motion, motion carried with three aye votes.

MANAGEMENT COMPANIES, FINANCIERS, AND/OR MANUFACTURERS

BET SYSTEMS, INC.

Ms. Cass-Healy said this company is applying for a manufacturer's license to distribute keno equipment in Washington State. Bet Systems, Inc. is located in Bedford, Massachusetts, and their corporate officers include Jack Saltiel, Chairman of the Board and President; J. Bartley

McEvoy, Vice President; and Peter C. Monson, Secretary/Treasurer and Chief Financial Officer. This privately held business was incorporated in Delaware on April 26, 1994, and has the authority to issue 3,000 shares of common stock, all of which are issued and outstanding. Jack Saltiel owns 50 percent of those shares, J. Bartley McEvoy owns 30 percent, Peter Monson owns 10 percent, and there are three other minority shareholders. Bet Systems, Inc., has sold one keno system to the Sandia Indian Tribe of New Mexico. New Mexico does not require licensing for keno system manufacturers. Investigative procedures included criminal and personal history background checks and a financial background investigation during the week of February 27, 1995. No unusual items were noted. A review of the organization's keno system was done and no violations were noted regarding Washington's regulations. Bet Systems buys software for its keno system exclusively from a group called Automated Resource Group on which limited procedures including background checks were performed with no problems noted. All financing for Bet System's start-up, of which approximately \$157,000 was provided by a company called SEA Promotions, is owned by three individuals which are also the minority shareholders in Bet Systems. A limited review of this company showed no unusual items. Staff is recommending approval for licensure as a manufacturer of Keno equipment.

Chairman Tull asked if anyone from Bet Systems was present; no one came forward. **Chairman Tull** moved to approve; **Commissioner Divine** seconded the motion. **Senator Prentice** asked since this company has only sold one Keno system, is there enough information to determine whether or not they are qualified. **Director Miller** said Bet Systems may not be that experienced in the keno arena but staff is looking at them for qualification as a manufacturer. **Ms. Cass-Healy** said Bet Systems is essentially a start-up company; they were just incorporated at the end of 1994. Vote taken, motion carried with three aye votes.

PARAGON GAMING, INC.

Ms. Cass-Healy said that Paragon Gaming is applying as a management company to provide consulting services specifically for Class III gaming operations. Paragon Gaming is located in Kent, Washington, and its principles include Steve Griffiths, President and Chairman of the Board; Nick Phillips, Vice President; and Beatrice Griffiths, Secretary/Treasurer of the company. Paragon Gaming was incorporated in December of 1994 and is in the start-up phase. Currently, 10,000,000 shares of corporate stock are authorized and 24,000 shares have been issued solely to Steve and Beatrice Griffiths at this point. Steve Griffiths has performed consulting work for several tribes during 1994 and 1995 under personal service agreements. These tribes include the Quileute, Nisqually, Muckleshoot, and Confederated Tribes of Warm Springs, Oregon. Paragon is currently under contract with Exports, Inc. to act as the general manager for the Nooksack Tribal Casino. Mr. Griffiths has delegated the day-to-day management to Randy Williams, an employee of Paragon. Mr. Williams is currently certified as a Class III gaming employee by the Gambling Commission. Paragon's records were reviewed to verify ownership and source of funds. All start-up funds came from the Griffiths personal savings. Criminal background checks were performed on all officers and shareholders and their spouses. Based on this investigation, staff recommends approval as a Class III management company.

Chairman Tull asked for an update regarding Mr. Griffiths' status. **Ms. Cass-Healy** said Steve

Griffiths recently resigned from employment with the Muckleshoot Tribe. **Director Miller** asked if both Mr. Griffiths and his spouse are certified gaming employees. **Ms. Cass-Healy** said that Mr. Griffiths is and Mrs. Griffiths certification has expired. **Commissioner Divine** asked if Mr. Griffiths has any involvement with the Colville Tribe. **Ms. Cass-Healy** said no. **Chairman Tull** asked if it was known the time period that Mr. Phillips was employed at Mill Bay (Colville Tribal Casino). **Ms. Cass-Healy** said he was certified, then went to the Colville's facility in July 1994, and then came back in February 1995. **Chairman Tull** said that was about the same time the Commission established its position on certifications and working for non-compacted tribes. The discussion in June was that the Commission's policy was going to be that when people are notified of the Commission's views, then they are held accountable. **Director Miller** said that one letter from the Commission to people involved with tribes running illegal gaming operations had good results. **Senator Prentice** said that there was a government-to-government meeting held in May 1994 where the Colville Tribe indicated that they intended to go outside of the law. She asked what Mr. Phillips' role was at that time. **Director Miller** said the Colvilles are in a unique situation because they filed suit against the state claiming bad faith when the compact process broke down at the last minute. Secondly, the Tribe did open its Class III gaming operation without machines. When the 9th circuit court decision involving the U.S. Attorney against the Spokane Tribe stayed the injunction against slot machines last May, the Colville Tribe, based on that stay, brought in machines. The parties involved, Mr. Einhorn and possibly Mr. Setterstrom, were given notice that continuing to work at these locations would be a condition for their certification by the Commission.

Senator Prentice said she wanted to make it clear that there are tribes that have made a commitment to operate within the law, and then there are those that have not made that commitment. **Chairman Tull** said he agrees with Senator Prentice and he feels it is clear to the Commission, the distinction of legality is an important one. He said there will probably be more discussion on this topic at tomorrow's meeting.

Commissioner Divine moved for certification of Paragon as a Class III management company. **Chairman Tull** seconded the motion. He asked if anyone from Paragon is present; no one came forward. Vote taken; motion carried with three aye votes.

EXCELSIOR/CHEHALIS Limited Partnership

Chairman Tull said that since the Commission members just received the written documents today, action will be taken tomorrow so that more time can be taken to look over the documents.

Ms. Cass-Healy said Excelsior/Chehalis LP is a limited partnership out of Delaware. The Confederated Tribes of the Chehalis reservation are requesting certification for Excelsior/Chehalis LP as a Class III management company. This partnership consists of three entities that have joined together specifically to provide financing and management services for the Chehalis Casino. These entities include Bally Entertainment, doing business as Bally's Casino Management, Inc.; Excelsior Casino Management Group, Inc.; and Libra Investments, Inc. The shares of the partnership are split as follows: Bally's is the one percent general partner in the partnership and they also have an 84 percent limited interest. Excelsior Casino

Management has a 10 percent interest, and Libra Investments has a five percent interest. Those are both limited. These are all contingent upon regulatory approval of the parties. Excelsior was previously certified by the Commission in September 1994. Staff has provided an overview of Bally's Entertainment Corporation and Libra in the packet for the Commissioners to review before tomorrow. The source of funds for the partnership totals \$12 million in loans, including \$10.5 million by the Bank of New York, (which is not required to be investigated by the compact since they are federally regulated), \$1 million by Fidelity Copernicus Mutual Fund, and \$500,000 by Libra Investments.

Chairman Tull said it would be more productive to save questions for tomorrow, but if anyone has questions they should feel free to ask them today. **Director Miller** said the parties are present from Connecticut, Nevada, and California. They are available for questions and have agreed to stay until tomorrow. He said this has been a rather complex investigation and the parties have cooperated well with the agency. This certification will allow these parties to formally become a partner in the operation. Staff has done extensive backgrounds on these corporations. **Chairman Tull** said the Commission appreciates the representatives being present. This issue will be discussed on Friday after staff reports are presented.

FRIDAY'S AGENDA

Ms. Tellefson said there is only one rule up for final action tomorrow, and that deals with licensees doing business with illegal entities. There are three packages up for discussion: One is a housekeeping package, one is regarding charitable and nonprofit recordkeeping rules, and the third is miscellaneous amendments for distributor licenses. There is one rule up for discussion and possible filing that has to do with the change in closure periods for bingo operators. **Chairman Tull** said the purpose of the review of Friday's agenda is so that if there is any information the Commissioners would like to have, preparations can be made before the next day's meeting.

QUALIFICATION REVIEWS

YAKIMA VALLEY O.I.C., Yakima

Ms. Cass-Healy said Yakima Valley OIC is an educational institution with a Class "K" bingo, Class "L" punchboard/pull tab license, and a Class "A" amusement game license. Their statement of purpose is to provide job training, educational and social services to unemployed and under-employed persons. The organization operates five branch offices and a full time administrative office in the Yakima area. They conduct several programs including a learning opportunity center, educational clinics, on-going ex-offender programs, a gang prevention/intervention project, and classes for non-traditional career exploration for females. They served approximately 48,000 clients last year with 187 employees and 182 volunteers. They made direct contributions of approximately \$4,500. Net gambling revenues totaled \$267,178, which was 5.6 percent of their total revenues for the year. Bingo net income was approximately \$154,000, or 3.2 percent of total revenues. They spent \$4,790,433 in support of their stated purposes including \$509,128 in administrative costs. In 1994, the organization participated in building four duplexes in Yakima for low-income families. In 1995, the

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organization will be the primary grantee for this program. The organization also expanded their alternative education program to a total of 12 school districts. Sixteen employees earned more than \$30,000 during the year and staff is recommending approval for qualification.

Chairman Tull asked what the time schedule is for license reviews; **Ms. Cass-Healy** said they are reviewed every three years. **Chairman Tull** said it has been a very good plan to have these groups come before the Commission and discuss their programs and their challenges and successes. **Representative Ruth Fisher** asked what "O.I.C." stands for. No one was sure, but **Senator Prentice** said they run job training programs. She said these types of organizations are going to become more and more dependant on alternate funding as more and more federal dollars are cut. **Director Miller** said gambling only provides 5 percent of their funding. **Senator Prentice** asked when this group would be appearing before the Commission for a formal review; **Chairman Tull** said they would be live before the Commission again next year, unless the Commission becomes curious about something before that time. A question that is good to ask is whether the Commission treats an organization that is 100 percent dependant on gambling in exactly the same manner as an organization that has gambling as an incidental in terms of understanding their program.

CHILDREN'S INDUSTRIAL HOME, Tacoma

Ms. Cass-Healy said this is a charitable organization with Class "H" bingo license, and a Class "J" punchboard/pull tab license. Their statement of purpose is to provide residential care and treatment and foster care services for emotionally disturbed and chemically dependant young people. The organization maintains a full time administrative office and four treatment facilities in Tacoma. Program staff are on 24-hour call and provide a stable and supportive environment for young people through eight treatment programs. They also have a program called STRIVE, which is an agency prevention program providing image building and skills training to street youths in downtown Tacoma; a teenage resource center, and an intake program for children ages 13 through 21. They served 148 members of the general public with 115 employees and three volunteers. Net gambling revenues totaled \$113,575, which is 3.2 percent of their total revenues for the year. Bingo net income was \$63,707 or 1.8 percent of their total revenues. They spent approximately \$4 million in support of their stated purposes, including \$555,000 to cover administrative costs. The organization is currently in the process of moving and expanding the Puget Sound Center. This move will allow them to accommodate several more clients. They anticipate opening this facility in the spring of 1996. Five employees earned more than \$30,000 and staff is recommending approval for qualification. **Director Miller** said 97 percent of their money comes from federal grants, so a very small portion is related to gambling.

NORTHWEST AMATEUR HOCKEY ASSOCIATION, Mountlake Terrace

Ms. Cass-Healy said Northwest Amateur Hockey Association is located in Mountlake Terrace, Washington. This is an athletic organization with a Class "J" bingo license, Class "L" punchboard/pull tab license, and they also have amusement game and raffle licenses. Their statement of purpose is to encourage and promote the growth of amateur hockey in accordance with youth movement objectives including teaching physical skills, fair play, discipline, respect for authority, and competitiveness. Management and coaching officials coordinate program activities for three traveling teams: the Seattle Indians, which is senior open; Seattle Ironmen,

ages 16 - 20; and the Seattle Braves, ages over 30. The traveling teams compete nationally. They also support four adult recreational teams that compete in the greater Seattle area. They served 650 members of the public and 80 members. Five employees and nine volunteers provided these services. Net gambling revenues totaled \$205,935, which was 87 percent of their total revenues. Bingo net income was \$180,176; which is about 76 percent of their total revenue. They spent about \$300,000 in support of their stated purposes, including \$63,000 to cover administrative costs. In 1994, the organization hosted the Junior "C" National Tournament in which their Junior Ironman team finished in second place. Three employees earned more than \$30,000 during the year. Staff is recommending approval for qualification.

Commissioner Divine moved for approval of the above three licensee groups; **Chairman Tull** seconded the motion; motion carried with three aye votes.

Chairman Tull adjourned the meeting until tomorrow and called for an executive session. He said there would be no further public action following the executive session. **Director Miller** asked that the executive session include negotiations and legal advice on the Initiative.

WASHINGTON STATE GAMBLING COMMISSION

MINUTES COMMISSION MEETING FRIDAY, AUGUST 11, 1995

Chairman Tull called the meeting to order at 10:00 a.m. at Campbell's Resort, Chelan, Washington.

MEMBERS PRESENT: **ROBERT M. TULL, Chairman; ARDITH DIVINE, and S. DON PHELPS; and Ex Officio Members Senator MARGARITA PRENTICE and REPRESENTATIVE RUTH FISHER.**

OTHERS PRESENT: **FRANK L. MILLER, Director; SHERRI WINSLOW, Assistant Director, Field Operations; CALLY CASS-HEALY, Assistant Director, Licensing; SHARON TOLTON, Assistant Director, Special Operations; CARRIE TELLEFSON, Special Assistant, Public Affairs; KIM O'NEAL, Assistant Attorney General; and SUSAN GREEN, Executive Assistant.**

Chairman Tull introduced the head table and welcomed the newest commissioner, Don Phelps, who is an attorney with his own law practice in the Olympia/Lacey area. He said there is a matter continued from yesterday's agenda that will be addressed today, the Excelsior management company application. Toward the close of the meeting, there will be an opportunity for people to address the Commission if their particular question or comment has not already been addressed.

APPROVAL OF THE MINUTES FROM THE JUNE 8-9, 1995, MEETINGS

Commissioner Divine moved to accept the minutes from the June 8-9, 1995, Commission meetings in Spokane, Washington, as set forth in the agenda packet; **Chairman Tull** seconded the motion; motion carried with three aye votes.

STAFF REPORTS

INITIATIVE 651

Director Miller said there has been a lot of publicity surrounding the tribal gaming initiative, I-651. The tribes were successful in achieving the number of signatures necessary to file the Initiative for the November election ballot. The Attorney General also has determined that because it is an expansion of gambling, it requires 60 percent voter approval. It will be on the

ballot in November.

CONGRESSIONAL LEGISLATION

Director Miller said there are a few Indian gaming bills in the U.S. Congress that are heating up a bit. The McCain bill to reopen IGRA was passed out of committee. One aspect of this bill was that the 11th amendment resolution process would take negotiations out of the states' domain and put them under the Secretary of the Interior, but give the state the right to still play a role. That portion was removed at the last minute. He said he would be monitoring this legislation closely and will give an update at the next meeting. Staff is in contact with the congressional offices frequently.

Senator Prentice asked if U.S. Senator McCain was one of the original sponsors behind the original IGRA bill. **Director Miller** said the original two sponsors were Senator Inouye and Senator Evans. Senator McCain is now the Chairman of the Committee on Indian Affairs. He has been very involved since the beginning of IGRA.

ADMINISTRATIVE LAW CASES

Director Miller said there are some recent cases that were quite large regarding the alleged pull tab scandal that resulted in four summary suspensions: the Royal Inn, the Yardarm Pub, Rollie's Tavern and Tab King. Three of those have completed hearings and are awaiting a decision from Judge Stanford. The Tab King hearing is scheduled for completion today.

Chairman Tull explained the Commission's role in serving as an appellate review tribunal; therefore, the Commissioners will get a summary brief from Director Miller but would not inquire much into the cases because they may come before the Commissioners later on appeal.

Senator Prentice asked what the basis is for the conflicting opinions behind the requirement that the Initiative receive 60 percent majority to pass in November. **Director Miller** said he has been advised that any legislative effort to expand gambling requires two-thirds majority because of the Constitution. The same would apply to a ballot issue because it is a constitutional mandate. **Senator Prentice** asked what the argument is for a simple majority. **Director Miller** said the argument is because it would be easier to pass, but staff has not been in contact with the tribes regarding the Initiative. **Kim O'Neal** said that state law does not apply to tribes, so it's their argument that since this law would have its major application to tribal gaming, the state constitutional prohibition would not apply. However, since this initiative would go into state law, state law would apply to its passage. **Senator Prentice** said people who are not tribal members will get to vote and the rebate was supposed to go to everybody else.

TRIBAL GAMING UNIT STAFFING

Sharon Tolton said there are currently six casinos operating under the terms of tribal-state compacts. One of the most recent, the Muckleshoot Tribe, opened a temporary facility in the Auburn area on April 28, 1995, and they are expected to move into their permanent facility in September. The Chehalis facility opened on June 9th in the Oakville area (south of Olympia) and staff is expecting three more facilities to open prior to the end of the year. Three of the existing facilities are currently at Phase II levels, which is the maximum allowed under the compact, and the Jamestown S'Klallam Tribe is currently under review to move to Phase II in

the near future. The Tribal Gaming Unit within the Special Operations Division currently has 11 staff people and is managed by one program manager and two supervisors (they are included in that 11). The Unit has recently refined some training that was conducted at the State Criminal Justice Training Commission in Seattle and it has been extremely successful. This two-day training invited all the tribes' Tribal Gaming Agents, as well as Tribal Police, to participate in training on what compacts mean and what the relationship is between the tribes and state through these agreements. It has been very well received; the classes were completely full and staff hopes to continue this on a regular basis. It is very credible to give this information in a classroom environment, because everyone gets the same information. The tribal governments are also provided with complete notebooks of the training so they can go back and work with their own staff on implementation and relationship issues. She said copies of the notebooks are available if the commissioners would like to review that program. Staff is requesting, with the Director's approval, the addition of one FTE to the program, which will make a total of 12 for the six facilities currently open. In the future, as the additional facilities open in 1995, staff will be requesting a secretary/clerical support person to assist those 12 agents with their work in the area of Class III implementation.

Ms. Tolton said the Tribal Gaming Unit continues to focus on programs that evaluate compact compliance in many areas the Commission is familiar with. Some of them, including the pre-operation inspection before the facility actually opens to the public, moving from Phase I level of scope to Phase II, and also monitoring the conditional Phase II approvals along with general compact compliance and oversight, which is done through inspections in tandem with the Tribal Gaming agency agents. **Ms. Tolton** said she has personally been involved representing the state of Washington on two committees that are set up through the compacts regarding the community contribution, which is a 2 percent of the net win that goes out to the community in accordance with the compact. This committee determines how the money will be distributed. The results have been very positive. So far, since the beginning of the facilities opening, about \$4 million has been distributed into the local communities and some of the recipients include primarily, the local law enforcement that would be impacted, and other emergency services. Some tribes have distributed funds to D.A.R.E. within the community, and also to school districts. She said another recipient of funds was a State Patrol detachment that was working very cooperatively in the area of the casino. The tribe had a concern that if they distributed funds into the State Patrol budget, the local area around the casino might not be the beneficiary of those funds. In talking with the detachment, they determined they would like to purchase two radar units and had a written agreement to make sure the equipment would be maintained within that detachment and used to enforce traffic laws in and around the local facility. This was a very creative but positive distribution of funds at that level.

Ms. Tolton said that in all, the program is going very well. She is very impressed with the work that Mike Tindall and his staff have done in the area of the Tribal Gaming Unit. As the Unit continues to grow, so does the expertise.

Senator Prentice said tribal gaming hasn't really been in full force as of yet. She asked about the committees **Ms. Tolton** referred to and if they are statewide committees. **Ms. Tolton** said the committees consist of a very small group of people that vote. The tribe has a vote, sometimes a representative of the county has a vote, the state of Washington has a vote, and then the committee can be adjusted amongst that group. If they wanted to add someone else, then the committee would vote to add someone else. Basically, what has happened at these meetings is the tribe invites people by letter within the community who may be impacted. Then the tribe allows each person to explain what their needs are and how they feel they have been

impacted, and then all of those people leave and the committee begins discussing how they actually want to distribute the funds. **Senator Prentice** clarified that the contributions are distributed to the areas in which they are most needed. She feels it is one of the elements of tribal compacts that is not understood and has been widely disseminated. **Ms. Tolton** said in some cases, there has been a strict concern about the sheriff's office, for example, and in one location the impact funds do go to benefit a full FTE, which means a deputy sheriff's services from year to year, because the sheriff cannot hire a deputy and then lay him off. That deputy is assigned to that specific area. **Chairman Tull** said the communities near the longest operating casinos have the most overall positive outlook. **Senator Prentice** said her concern about this not being widely understood is that there will be a lot of discussion for the rest of this year about tribal gaming and she thinks the Commission needs to make it clear what has happened in terms of those tribes that have chosen to obey the law and enter into compacts. **Chairman Tull** said one concern is that if there is wide open unregulated gambling, that will crush the compact tribes in particular areas, and the Initiative does not include funds for distribution to local communities. **Ms. Tolton** said the other logical impact of this relationship is that as the funds are distributed, it creates a very positive relationship between these organizations and the tribes. Emergency services agencies are coming to local meetings and asking for funds, and tribes ask for documentation of the impacts on emergency services to justify receiving funds to offset the impact.

EXCELSIOR CHEHALIS LIMITED PARTNERSHIP

Ms. Cass-Healy said the Confederated Tribes of the Chehalis Reservation are requesting certification for the entity Excelsior Chehalis Limited Partnership. This is a Delaware limited partnership consisting of three entities that have joined together specifically to provide financing and management services for the Chehalis tribal casino. These entities and their interest in the partnership contingent upon regulatory approval include: Bally Entertainment Corporation, which is doing business as Bally's Casino Management, Inc., Excelsior Management Group, Inc., and Libra Investments, Inc. Bally's Casino and Management, Inc., will have a one percent general partnership interest and an 84 percent limited partnership interest. Excelsior and Libra will have a 10 percent and 5 percent limited interest, respectively.

Ms. Cass-Healy said Excelsior was certified by the Commission in September of 1994 as a Class III management company. It is a closely held corporation owned by its president, Bruce Einhorn, and its vice president, Secretary/Treasurer Paul Brody. The Company's primary business and main source of income is from providing management services related to casino operations. Bruce Einhorn is currently working as the general manager of the Chehalis Casino. Bally's Entertainment Corporation, which is doing business as Bally's Casino Management, is owned through a series of three subsidiaries. Bally's Casino Management, Inc. was formed for gambling operations in Washington State and they provide management teams to different casinos.

David Arrajj, said he is vice president and general counsel of Bally's Grand, Inc., the direct part of Bally's Casino Management, which has done no other business than provide financing for the Chehalis Casino and enter into the appropriate agreements to acquire the partnership interest that was mentioned to the Commission. He said he is prepared to answer any other questions as they come up.

Ms. Cass-Healy said Bally Entertainment Corporation is the parent company of Bally's Casino Management, Bally's Grand Sub One, (a holding company for land in Las Vegas), and Bally's Grand, Inc., and approximately 104 other subsidiaries dealing with hotel/restaurant, casino and health club operations. The securities of Bally's Entertainment Corporation are traded on the New York Stock Exchange and include common stock at par value of 66-2/3, preferred stock purchase rights and convertibles subordinated indentures. Arthur Goldberg owns 8.25 percent of the corporation's stock as of March 1995, 6.7 percent directly and 1.5 percent indirectly through a limited partnership in which he is the sole general partner. There are no other substantial interest holders of Bally Entertainment Corporation.

Ms. Cass-Healy said Bally's Casino Management, Inc., is located in Las Vegas, Nevada. Bally Entertainment Corporation is located in Chicago, Illinois. The management for Bally's Casino Management, Inc., includes Darrell Luery, who is Chairman of the Board, President, Secretary, and Treasurer. Staff's understanding is that this is because they haven't formally entered into this agreement in Washington. The on-site representative for the Chehalis casino is Leonard Del Genio who lives in Olympia, Washington. Bally Casino Management, Inc., does not currently have any other gambling locations. Bally Entertainment Corporation and its subsidiaries operate commercial casinos in New Jersey, Nevada, Mississippi, and Louisiana. They are licensed in all of these states. Libra Investments, Inc., is a privately held NASD licensed broker dealer that provides investment banking and securities trading services. Libra will receive a 5 percent limited interest in Excelsior/Chehalis LP in exchange for their financial advisory services. The primary owners of Libra are Jess Ravich with about 60 percent of the shares, and James Upchurch with almost 10 percent. Several others own less than 5 percent interest each. Libra Investments is located in Los Angeles, California, and its officers include Jess Ravich, Chief Executive Officer and Chairman of the Board; James Upchurch, President; Charles Thurnher, Chief Financial Officer; and Charles A. Yamarone III, Executive Vice President. Libra Investments and certain of its employees own directly or indirectly approximately 13 percent interest in the Greenville Casino Partners Limited Partnership, which is an entity that owns and operates the Las Vegas casino and a dockside gaming facility located in Greenville, Mississippi. Libra also holds approximately \$1 million in notes issued by the Greenville partnership. The Mississippi Gaming Commission recently approved a license for Libra in Mississippi.

Ms. Cass-Healy said that criminal and personal history background checks were completed on all officers and substantial interest holders, as well as their spouses, for Bally's Casino Management, Inc., Bally's Grand Property Sub One, Inc., Bally's Grand, Inc., Bally Entertainment Corporation, and Libra Investments. A financial background investigation was initiated on Bally's on March 13, 1995 at their offices in Las Vegas. The investigation also included certain records of Bally's Grand Property Sub One, Bally's Grand Inc., and Bally Entertainment Corporation. The records were reviewed to determine ownership and verify the source of funds for the financing of the Chehalis casino. In addition, a limited scope investigation was performed on Libra Investments, Inc., due to their limited participation in the partnership. No unusual items were noted in this investigation. The source of funds for the Chehalis casino currently includes \$12 million in loans by the Bank of New York which contributed \$10.5 million. Fidelity Copernicus Mutual Fund, which contributed \$1 million, and Libra Investments, Inc., which contributed \$500,000.

Ms. Cass-Healy said based on this investigation, staff recommends certification of Excelsior Chehalis Limited Partnership. **Chairman Tull** asked if this financing is in place today. **Ms. Cass-Healy** said yes, and Bally plans, if certified, to contribute \$3 million in equity. She said

she believes they intend to pay off part of the Bank of New York loan.

Director Miller said it should be noted that Bally Entertainment is a different company than Bally Gaming. Bally Gaming is the manufacturer that makes slot machines, etc.

Mel Youckton, Chairman, Chehalis Tribe, introduced David Youckton, Vice Chairman; Harold Chesnin, Attorney; Paul Brody, of Excelsior; Bob Morish from Libra Investments; and David Arrajj, Attorney. **Chairman Tull** said he assumes the tribal government looks forward to entering into these arrangements. He said the procedures for these reviews are still evolving and sometimes it's awkward to discuss certain types of sensitive issues in public session, but it's unacceptable to pass over those issues.

Senator Prentice said she is interested in the nature of the criminal and personal history background checks. She is wondering how deep staff really goes. **Ms. Cass-Healy** said each person must fill out certain forms and return them to staff. Reports are very thorough, including fingerprints. **Director Miller** said the Commission is a member of the Law Enforcement Intelligence Unit (LEIU), a membership the staff is very proud of because it is based on staff's experience. Staff's background checks are as thorough as any in the country. The two things being looked for is the criminal side and the second is the source of funding; who are the parties and are they who they say they are. This particular investigation was expensive and was paid for by the applicants. Agents traveled throughout the country looking at records. **Senator Prentice** asked if the Commission was hooked into all phases of investigations. **Director Miller** said yes, except for banks; staff will not do background checks on banks that are federally regulated institutions. **Senator Prentice** asked if this capability to check out companies will be lost under the Initiative 651. **Director Miller** said that the Commission presently does not have jurisdiction over those tribes that operate illegally now, and under the Initiative, the state would have limited authority to do background investigations on key employees and management companies but would have no authority to remove a license. It would be a different role than the state has today.

Chairman Tull asked if there was any guarantee of reimbursement of costs under the Initiative.

Ms. Cass-Healy said it does say that if the state does the background checks, the state can expect reimbursement of reasonable costs. **Chairman Tull** asked what the ball-park price was for this investigation, recognizing staff is not limiting the final amount because not all the costs are in. **Ms. Cass-Healy** said all three ran between \$50-60,000 total, but that does not include individual employees certified for the Chehalis casino itself. **Chairman Tull** asked if this was funded by funds deposited in advance. **Ms. Cass-Healy** said yes. **Chairman Tull** asked for someone to walk the commissioners through the steps on the previous involvement with Bally Gaming and the sequence that led to the separation.

David Arrajj, General Counsel, said the company that is now called Bally Gaming is a publicly traded corporation. It became publicly traded in the Autumn of 1991. Before that time, what is now Bally Gaming was essentially a division of Bally's Grand, Inc., parent company of Bally Entertainment, which is itself publicly traded. In 1990, the parent company created a corporation to which it contributed the assets of its slot machine manufacturing division. Those assets became the property of a separate subsidiary and through the usual processes of preparing, initiating and carrying out an initial public offering, Bally Entertainment offered to the public the stock of that corporation that contain those assets; the slot machine manufacturing

operation. The initial public offering was completed in the Autumn of 1991, and there was a secondary public offering completed in the Summer of 1992. Once the secondary offering was completed, the parent company, Bally Entertainment, was left with 22 percent of Bally Gaming and at that time, all representatives of Bally Entertainment resigned from any position with Bally Gaming. From that point forward, Bally Entertainment exercised no control at all over the operations of Bally Gaming. In September of 1993, through an exchange transaction, Bally Entertainment traded its remaining stock in Bally Gaming to Fidelity Investments in exchange for stock in Bally's Grand, Incorporated. Through the public offering and through the stock transactions process of publicly traded stock, Bally Entertainment gave up control of the Bally Gaming entity in 1991 and 1992 and divested itself entirely by the Summer of 1993. Since that time, they have had absolutely nothing to do with it. The name; "Bally" is used because there is a licensing agreement that exists between Bally Entertainment and Bally Gaming which permits Bally Gaming to use the Bally name in exchange for money and other considerations. The parent company, Bally Entertainment, initiated a lawsuit against Bally Gaming to extinguish that agreement because part of the licensing agreement prohibits Bally Gaming from doing anything to essentially besmirch the name and place in danger Bally Entertainment's other regulatory approvals in other jurisdictions. As the Commission knows, Bally Entertainment is licensed in several jurisdictions to operate casinos. Bally Entertainment cannot afford for this kind of confusion to cause a real problem. The lawsuit is no longer pending. The lawsuit was settled, and there were, in connection with the settlement, further assurances given with regard to future safeguards in terms of the use of the name to the parent company by Bally Gaming. Part of the settlement included the resignation of certain individuals who worked for Bally Gaming.

Chairman Tull asked for clarification and status on the 1994 indictments of Bally Gaming employees. **Mr. Arrajj** said that, from what he knows about it in terms of Bally Gaming's involvement, the company itself was not indicted. A gentleman by the name of Alan Mace was indicted. He was accused of certain federal offenses; he couldn't give all the details on that because he didn't remember. Mr. Mace as Mr. Arrajj understands, was indicted for activities he undertook during a period in which he was the Chief Executive Officer of Bally Gaming, however, before the indictment came down, he had been separated from the company.

Chairman Tull said Mr. Goldberg and Mr. Aronoff had resigned from Bally Gaming but the report does not indicate the date. **Mr. Arrajj** said he believes that was in 1992. He said he believes it would have been in connection with the secondary offering that he mentioned. At the time Bally Entertainment's interest in Bally was reduced through the secondary offering to about 22 percent, George Aranoff, who is one of the parent company directors and also an attorney in a Cleveland law firm, and Mr. Goldberg, who had been members of the Board of Directors of Bally Gaming, resigned at that time.

Chairman Tull asked for the opportunity to ask Ms. Cass-Healy a question privately, which he did. He said he had no further questions and asked if anyone else had questions or comments. He said he appreciates the chance to review the materials and he is prepared to proceed.

Chairman Tull moved for approval of Excelsior/Chehalis Limited Partnership;. **Commissioner Divine** seconded the motion; motion carried with three aye votes. **Chairman Tull** thanked the representatives of the company and the Tribe present, and he thanked Ms. Cass-Healy and her staff for preparing the information

ADOPT OR AMEND RULES

LICENSE DENIAL of REVOCATION FOR DOING BUSINESS WITH ILLEGAL ENTITIES

Amendatory Section **WAC 230-04-400 - Denial, suspension or revocation of licenses**

Ms. Tellefson said WAC 230-04-400 is an amendment that provides a basis for denial, revocation or suspension of a license if a manufacturer, supplier, or financier does business with an illegal entity. There were changes made at the request of Commissioner Heavey at the June Commission meeting. One of the changes is adding the word "knowingly" to provides or provided. Commissioner Heavey's suggestion was to eliminate innocent parties who didn't realize they were doing business with someone operating illegally. The other change was an addition to the last part of the subsection (10), "...at the time such good or services were provided." The basis for that change is so that if in the future the laws change, it would still be accountable at that time. Staff recommends final adoption. **Chairman Tull** said that over the years, the Commission has attempted to make sure the packet is designed to assist the commissioners as much as possible. There is a section called, "Statements against the rule change." At one point this was accurate; there were comments received against this proposed rule. **Ms. Tellefson** said there are comments opposing the rule change by the Colville Tribe and the Spokane Tribe, and the rule summary is incorrect in saying there were no negative comments.

Robert Saucier, Mars Hotel Corporation in Spokane, said that at the last meeting he testified in opposition to the broad brush this change is painted with in that it is not confined within the geographic boundaries of Washington State. He said his testimony today has to do with the definition of a supplier, manufacturer, financier or management company. His observation is that this is so far reaching it could apply to non-compacted tribes here in Washington State or elsewhere. But then beyond that, manufacturers of the card tables, cards, chips, pull tabs, are all affected. Other suppliers to these entities such as food vendors, bakeries, beer distributors, and contractors that built facilities are also affected. **Chairman Tull** said the rule only applies to those who have or would need licenses. **Mr. Saucier** said it would also apply to a contractor he was contacted by. He agrees with the intent and agrees with giving staff the tools, but he is concerned about the broad brush.

Kevin Crum, President, WCCGA, said the group supports the rule and its intentions as written.

John Dick, Gaming Commission Director, Colville Tribe, said that other representatives of his tribe have testified against this rule. He said he had heard comments regarding regulations of the non-compacted world and non-compacted tribes. He wanted the Commission to know that his agency has been formed by the Colville Tribes and they do have the responsibility and authority to conduct background investigations of all gaming employees of the Colville Tribe and vendors doing business with the Colville Tribe are subject to investigation. He said he doesn't think the Colvilles should be classified as criminals because the issue is still with the courts. He said the Tribe is doing the best it can to keep illegal elements out of the gaming industry and he is proud to be a member of the Colville Tribe.

Don Smith, asked if the Commission knows who is the manufacturer or the distributor of the Spokane Tribe's slot machines. **Chairman Tull** said staff is aware of the original manufacturers. As to the question of who were the distributors, it becomes more complex. **Mr. Smith** said he specifically wants to know if the Commission is aware of the manufacturer or distributor of those slot machines that are currently in operation.

Director Miller said the Commission has intelligence information pertaining to the identity of the manufacturers. One of the concerns that staff has had is federal law prohibits the transportation of gambling devices under the Johnson Act to a state in which the devices are illegal. Staff believes the transportation of these machines across state lines is a violation of that federal law.

Chairman Tull asked if that wasn't also the opinion of the United States attorney for the Eastern District of Washington. **Ms. O'Neal** said yes. **Director Miller** said that the machines in question have come through numerous ownership and have come through a different distribution route. The seizure the staff did about a year ago was from information received on whom the supplier was. That case is still pending. **Chairman Tull** said anyone who enters the casino can read the name plates on the machines to determine who the manufacturer is.

Chairman Tull asked if anyone else would like to come forward and testify on this rule; no one came forward.

Director Miller said that this rule is not directed at the Colville and Spokane tribes, but he does have concerns about a distributor that would supply equipment to those operations without a compact. Staff must have the ability to say no to those companies who have a propensity to violate the law, which is the intent of this rule.

Senator Prentice said that while she was on the Gambling Policy Task Force, Director Miller brought machines to a task force meeting to demonstrate how they worked. **Director Miller** said there are companies that have supplied machines for years where they are illegal. Unfortunately, they have never had an indictment. The Gambling Commission has the right to deny entities for illegal transactions. **Senator Prentice** said she presumes also there are plenty of companies willing to manufacture and distribute who are not in trouble and aren't limited when the Commission eliminates those that are illegal. **Director Miller** agreed, stating staff has a complete list of suppliers. He said he will show her flow charts and organization charts showing the flow of money that is clearly illegal. These companies are trying to get a license.

Chairman Tull said he believes this rule as revised is more fair and gives better notice to those in the community who may have been confused in the past by the evolving nature of compacts and non-compact operations. He said this goes beyond the question of the Class III operation. It applies to licensees in connection with any form of activity in the state of Washington. He said he supports this rule change and believes it is appropriate. **Director Miller** said, in response to Mr. Saucier's comments, that it does not apply to suppliers of food or to contractors. This rule applies to entities we believe need to be looked at. **Chairman Tull** said that if a connection or influence was found and that influence was in the form of food or beverages, there would be no hesitation to investigate and make appropriate rules. **Director Miller** said the Commission has seen connections in the past to non-gambling elements involved in organized crime.

Commissioner Divine asked for clarification of meaning. **Director Miller** said the Gambling Commission requires a review of anyone having to do with the gaming operation under the compacts. Any other individual that would have access to sensitive areas, or makes equipment, will be certified. In the non-compact area, all the bingo equipment manufacturers are required to be licensed. All of the pull tab, punchboards, machines, are all required to be backgrounded and checked. The Commission does not license beer distributors or food suppliers at this time;

other agencies handle those areas. He said the Gambling Commission has the option of going that far but has chosen not to.

Director Miller said that normally rules are effective twice a year, in either July or January, but this was filed as an emergency and the request for this rule change is that it take place 31 days after filing.

Commissioner Phelps asked if this is an issue the ex officio members would be voting on; **Chairman Tull** said no, that ex officio members vote only on compacts.

Commissioner Divine moved for final adoption and for an effective date of one month following the filing; **Chairman Tull** seconded the motion.

Senator Prentice said legislators would most likely support the passage of this rule change since their concern is that gambling stay as clean as possible.
Vote taken, motion carried with three aye votes.

HOUSEKEEPING CHANGES -- BINGO EQUIPMENT

- (a) Amendatory Section **WAC 230-02-250 - Bingo equipment**
- (b) Amendatory Section **WAC 230-08-105 - Disposable bingo cards--Inventory control record**
- (c) Amendatory Section **WAC 230-20-240 - Bingo equipment to be used**

Ms. Tellefson said Items 4 A-C are housekeeping changes up for further discussion. No one came forward to testify on these rules. **Chairman Tull** said as these rules go through the administrative process, the Commission always makes available opportunities for public testimony in addition to keeping the written record open for comments.

CHARITABLE/NONPROFIT ORGANIZATIONS - RECORDKEEPING RULES

- (a) Amendatory Section **WAC 230-08-010 - Monthly Records**
- (b) Amendatory Section **WAC 230-08-080 - Daily records--Bingo**
- (c) Amendatory Section **WAC 230-08-095 - Minimum standards for ~~((Class D and above bingo games--))~~ monthly and annual accounting records--charitable or nonprofit organizations**
- (d) Amendatory Section **WAC 230-12-020 - Gambling receipts deposit required by all bona fide charitable and nonprofit organization--Exemptions**
- (e) New Section **WAC 230-08-110 - Prize inventory control procedures--Records required--Charitable or nonprofit organizations**

Ms. Tellefson said Item five includes five rules, including four amendments and one new rule, and primarily deal with recordkeeping for charitable and nonprofit organizations. There is also a rule that deals with capital assets, the deposit of nongambling funds into gambling receipts accounts, and inventory control records for prizes. These are up for further discussion.

Chairman Tull asked what the level of consent is on these rule changes by the study groups;

Ms. Tellefson said there have been no concerns expressed during the charitable/nonprofit study group meetings regarding these rule changes.

MISCELLANEOUS AMENDMENTS - DISTRIBUTOR LICENSES

- (a) Amendatory Section **WAC 230-02-210 - Distributor defined**
- (b) Amendatory Section **WAC 230-04-120 - Licensing of distributors**

Ms. Tellefson said Item 6 are two rules that are also up for further discussion. One rule clarifies the definition of distributor and the other clarifies that a distributor license is required to sell gambling equipment to class III casinos. Staff recommends further discussion. **Chairman Tull** asked for testimony; no one came forward. He said there will be another opportunity to testify at the September meeting in Bellingham.

BINGO HOURS OF OPERATION

Amendatory Section WAC 230-20-170 - Bingo operation date limitations

Ms. Tellefson said Item 7 is an amendment to WAC 230-20-170 and is up for discussion and possible filing. The rule changes the definition of occasion for bingo games and allows 18 consecutive hours per occasion as opposed to 16 hours, and also allows bingo to be conducted beyond the hour of 2:00 a.m., as long as certain conditions are met. One of the conditions includes local law enforcement concurrence. Seattle Junior Hockey has already talked to their local police department and obtained concurrence. Staff recommends filing of this rule for further discussion. For the benefit of new commission members, **Chairman Tull** explained that the process for filing rules.

Kevin Crum said this rule has been discussed and developed during study group meetings and the group supports the filing of this rule.

Commissioner Divine moved for filing; **Chairman Tull** seconded the motion; motion carried with three aye votes.

COMMENTS OF PUBLIC OR PUBLIC OFFICIALS

Chairman Tull said this is an opportunity provided at each meeting to address the Commission.

TRIBAL GAMING -- INITIATIVE 651

Greg Murray, Treasurer, Committee Against Unrestricted Gambling (CAUG), said the Committee sent a letter requesting the Commission take a position against Initiative 651. His organization feels very strongly this Initiative will have a negative impact on the citizens of Washington and also on the current licensees and compact tribes. Director Miller has explained to Mr. Murray that it is unclear at this point whether the Commission can take a position on this Initiative. He asked the Commission to take a position against the Initiative. Mr. Murray also asked what the Commission thought the impact would be on existing compacts, and on-going negotiations.

Chairman Tull said Director Miller mentioned there were still unresolved questions to the extent the Commission could express a collective position on this Initiative. He said he has already appeared in public about this proposal and has offered his personal views. The Commission has discussed this issue with its assistant attorney general and it is a matter of substantial complexity. The Commission is asking for some further analysis and may in addition to that, be asking staff to advise on the operational implications upon passage of such an initiative. The

Commission feels an obligation to keep the activities of the Commission and the employees within both the letter and the intent of the election laws of this state. He said he didn't believe the Commission could give Mr. Murray an answer today.

Mr. Murray asked if it would be possible to answer the questions as to how the Gambling Commission will be impacted as far as the compacted tribes and negotiations and also on the ability to continue as a regulatory body.

Chairman Tull said those are the types of questions the Commission will try to get some focused analysis from the staff. As individuals it effects the long term planning. Secondly, it may well be information that would guide us in terms of individual or collective action.

Senator Prentice said these questions are good to ask staff because they have had an opportunity to study the Initiative. She asked if the Initiative were to pass, would the state then have no control, would the state have no criminal jurisdiction on the reservation? What would be the impact?

Director Miller said the Initiative would change dramatically the compacts that have been negotiated. The compacts with the 15 Tribes, set forth the nature and scope of gaming and set forth how large a tribal gaming operation can be, with so many tables, so many hours and wagering limits. Under the existing tribal-state gaming compacts, slot machines are illegal. Under the Initiative, the tribes could have any level they chose. The compacts also allow one facility per tribal government, the Initiative would allow unlimited number of facilities depending on their location and market. The Initiative would also allow slot machines and all types of gambling devices. Under the compacts, the Commission does all background examinations, but under the Initiative, staff has limited authority and would not have the ability to deny a certification; that would go through an independent mediator. Regarding criminal jurisdiction, the compacts allow the state's illegal gambling laws to be enforced on the reservation by the commission. Under the Initiative, the Commission would not have any criminal jurisdiction.

Chairman Tull asked what the staffing level is now of the National Indian Gaming Commission's field staff; **Director Miller** said he thinks there are five field people for the entire country; **Chairman Tull** said the Initiative says the NIGC regulations apply. Obviously, some tribes will do better than others. **Director Miller** said that staff could watch illegal activity, but could not do anything about it. **Director Miller** also stated to go to a non-public area, staff would have to give 12 hours notice; to copy a document under the Initiative, staff would have to give 48 hours notice. Under the compacts, staff has unrestricted rights to enter non-public areas and copy documents. **Chairman Tull** asked if the 12 or 48 hours notice negates any notion of a realistic investigation. **Director Miller** said that everything that has been negotiated in the compacts would not be applicable to the non-compacted tribes. The differences are quite major.

Senator Prentice said there is a reference in the Chehalis/Bally's review to the reference that NIGC hadn't been able to approve the management contract due to a shortage of resources. It sounds as if there really isn't enough NIGC staff now to do the job that should be done.

Director Miller said the NIGC was formed to look at tribal bingo and non-banking card games and not to regulate Class III gaming. They are very limited in their resources. The NIGC doesn't have the ability to do on-site regulation. **Chairman Tull** said he recalled in the Initiative

that it mentioned compliance with NIGC. He said Director Miller's comment about the NIGC not regulating class III also rings a bell. **Director Miller** said they have the ability to do backgrounds on management companies and key employees but to his knowledge they do not have jurisdiction to regulate class III gaming. **Senator Prentice** asked if the Initiative was to pass, did staff have a sense of how this was going to hurt the rest of the industry. **Director Miller** said that if the Initiative should pass, it will have a dramatic impact on the charities and in the non-tribal arena. Staff has said publicly the state legislature would be pressured to expand beyond the reservation boundary. If the Initiative passes, it would make it more like a Nevada environment. It is a full-scale unlimited size operation.

Chairman Tull said if the Initiative were to pass, it would place the Gambling Commission in a position of being merely "window dressing," which is a position the Commission never wanted to assume.

Mr. Murray said he appreciates the information that has been disseminated but he is bothered by the Commission not speaking out publicly to make the facts known to the citizens of the state. **Representative Fisher** said the Gambling Commission, as a state agency body, cannot legally take a stand on the Initiative. She said the Commission members can discuss the Initiative, answer questions but it cannot take a stand as a body.

Chairman Tull said he thinks the laws of the state are constructed so that the government doesn't go out and promote or oppose ballot measures. **Senator Prentice** said that as legislators, the ex officio members also have limitations. Legislators can speak out as long as state resources of any kind are not used.

SPOKANE ATHLETIC ROUNDTABLE

Lawrence Smith, President of the Athletic Roundtable in Spokane, said he was addressing the Commission with regard to WAC 230-20-064 which states that any licensee may petition the Commission to change its license class. The ART received a notice from Commission staff that they were being downgraded from \$3 million per year to \$2.5 million as of September 1, 1995. This would make it impossible for them to operate and would effectively put them out of business. As a business, they have certain expenses they must pay. They are out of compliance by about a point and one half and their payout is about 2 1/2 or almost 3 percent under where they could be. He said the percentages are not balancing, from their standpoint. Of the six largest bingo operations in Spokane, out of those six, five were out of compliance on net income. They are having some substantial impacts in Spokane. From their standpoint, they have taken a lot of measures to improve what they are doing. He said the organization has taken steps to come into compliance. In order to make this work, their payout would have to be lowered about 5 percent. The one factor they do not have control over is their rent. He said they pay the highest rent of any bingo operation in Spokane. They have been negotiating the lease for some time and even operated without a lease during negotiations. They now have a sale agreement which would give them control over fixed expenses that would result in an immediate impact of one percent. As of June 30, he said ART is presently one percentage point out of their net, by buying this building. By the end of 1996, they would be within full compliance. Under the statute, he said they only have a year to come into compliance. They propose that the date of notification be changed to January 1996 to give them adequate time to come into compliance with the requirements.

Chairman Tull asked if the downgrade is an action which may be appealed by the licensee. **Ms. Cass-Healy** said the downgrade is automatic based upon their measurement period which is their fiscal year. According to the rule, if they show compliance for two quarters, one of which can be the quarter proceeding the end of their license year, they may petition the Commission for an upgrade. **Director Miller** said this rule is partially a result of problems like ART has had with compliance in the past. Under this rule, it is automatic that the downgrade take place.

Commissioner Phelps asked what the date the downgrade is effective. **Mr. Smith** said the official date is September 1, 1995. **Chairman Tull** asked Ms. Cass-Healy what would be the operative effect of not downgrading the license between September 1 and the Commission meeting in Bellingham. **Ms. Cass-Healy** said they had had some discussions with Mr. Smith and Mr. Gustafson and they indicated that if they are downgraded to Class "I," they will have to close their doors. She said that she had encouraged Mr. Smith to bring his concerns forward because the downgrade is occurring so soon.

Chairman Tull said he does not intend to pre-judge and Mr. Smith has made the Commission aware of his concern. He asked that the issue be placed on the September agenda. He asked if this triggers a hearing or is it a petition. **Ms. O'Neal** said the petition request becomes a request for a declaratory order and the Commission has discretion to either enter an order declaring it is applicable or set a hearing within 90 days. **Chairman Tull** said in the next few days it would be ascertained what the proper procedure will be and then notify the licensee.

Steve Downen, owner of the Riverside Inn, Tukwila, said he has information regarding what has happened to his business since the Muckleshoot gaming facility opened. He said his card room had 65 full and part-time employees. Since the Muckleshoot casino opened in Auburn, 17 miles away, his card room revenues are down 45 percent. He used to have 40 people playing cards and 10 to 15 waiting to play. Currently, he may scrape together a couple games per week which would include may be 10 to 20 players. His total restaurant facility which includes food, beverage, pull tabs, card room, is down 23 percent. His gambling check to the City of Tukwila is down a third in the second quarter and he expects it to be down further in the third quarter. He has cut an equivalent of 11 employees off his schedule. Basically, he and others in the industry are not going to make it. The Tribal Casinos are going to take too much disposable income out of the economy and put them out of business. He said there are not 200,000 people flying into SeaTac to gamble, so all the revenue comes out of the local economy. His customers have left to the casino and that revenue will stay there.

Chairman Tull said he appreciated Mr. Downen's information. He asked about the pull tab revenue. **Mr. Downen** answered he was down about 20 percent on pull tab revenue. Card players will play pull tabs while they are waiting and he has lost \$2,000 to \$3,000 a week in food and beverage sales too because he doesn't have the customer base.

Senator Prentice asked if he's located in the city or county; **Mr. Downen** said he is located in the city. He said he used to pay the city of Tukwila \$18,000 to \$20,000 a quarter for his gambling taxes. **Senator Prentice** said this is one of the questions she has had that she thinks is poorly understood; card rooms put a lot of revenue into local government. She believes this is another aspect of the Initiative that needs to be looked at. **Chairman Tull** said it would be up to the individual tribes as to whether or not they would contribute to the local jurisdictions on a day-to-day basis. **Senator Prentice** said she is thinking of a small location that the Gambling Task

Force visited, Sumas, and they had indicated to the Task Force that kind of revenue coming in enabled them to have a police force they wouldn't have been able to afford otherwise.

Chairman Tull said he knew that at one point, Sumas' general fund was about 60 percent from gambling taxes.

Director Miller said he believes it is very clear that as the Commission sees more casinos come on board, the Commission will see more impact. Staff has known that. Staff is studying that and putting together documentation to present to the Commission.

Robert Saucier, Mars Hotel, said the Washington State Licensed Beverage Association met a couple months ago to discuss this issue. He said the story from Mr. Downen is not unique; all of the members appear to be down who are within the range of an Indian casino. He believes frustration comes from the fact of not being able to compete. These people are competitors; they have had to be able to compete in this industry all along. Currently the state Gambling Commission publishes statistics in a report that doesn't always reflect the impact on individual operators. He urged the Commission to publish a report to the Legislature. He said the Association has been working with Director

Miller and his staff reviewing a package of rules and they are going to ask that those be presented at the next meeting. Beyond that, they are also putting together their agenda for the 1996 Legislative Session. They intend to seek approval from the Gambling Commission to publish a report that could be submitted to the Legislature.

Chairman Tull advised everyone that the September 14 and 15, 1995, meeting would be in Bellingham and adjourned the meeting.

NOTE: THESE PRINTED MINUTES PLUS THE TAPES CONSTITUTE THE FULL MINUTES.

Susan D. Green
Executive Assistant